

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUAWEI TECHNOLOGIES, CO, LTD, et
al.,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO, LTD., et
al.,

Defendants.

Case No. [3:16-cv-02787-WHO](#)

**ORDER ON PENDING MOTIONS TO
SEAL**

Re: Dkt. Nos. 327, 331, 333, 334, 347, 349,
355, 357, 369, 371, 375, 378, 396, 398, 428,
430

Currently before me are numerous administrative motions for leave to file under seal various portions of pleadings and exhibits submitted in support of and in opposition to the parties' (1) cross-motions for summary judgment, (2) motions to strike and exclude, and (3) *Daubert* motions.

In an Order dated September 25, 2018, I directed the parties to file one consolidated chart identifying the specific, narrowly tailored information they sought to seal by specific docket and sub-docket number (*e.g.*, ECF Dkt. No. 384-2) and then by page/line or paragraph number. Order on Motions for Summary Judgment, Daubert Motions, Motions to Strike and Exclude ("9/25/18 Order") [Dkt. No. 419 [redacted]] 92–93. I directed that the chart must also identify the specific portion of a declaration where a person with knowledge demonstrated compelling reasons to justify sealing that specific piece of information, including the harm that public disclosure would cause. I provided guidance with examples of what information would and would not be sealable under the compelling reasons standard. *See Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016). Finally, I ordered the parties to identify matters that could be wholly unsealed with the same degree of specificity.

Parties submitted a joint chart on October 15, 2018. Dkt. No. 420. Their amended

requests reflect a reduction in both the number of docket entries and the number of redactions within documents.

The parties have filed two substantive motions since submitting their joint chart, one of which I have addressed. *See* Order on Samsung’s Motion for Clarification [Dkt. No. 432]. I will resolve the related motions to seal at the end of this Order. *See infra* Section I.E – Later-Submitted Requests.

For the reasons set forth below, I will grant¹ in part and deny in part the parties’ requests.

I. INFORMATION THE PARTIES WISH TO KEEP UNDER SEAL

A. Technical Product Information Including Source Code

In my September 25, 2018 Order I advised the parties, “Descriptions of confidential functions of accused products, including references to the contents of source code are sealable, if those functions or portions of source code are not otherwise obvious, expected, or publicly known.” 9/25/18 Order 93. Huawei, Samsung, Qualcomm, Nokia, AT&T, and T-Mobile request sealing of information that they assert falls into this category.

Huawei seeks to seal excerpts that “reveal highly confidential technical details about Huawei’s products accused of patent infringement in this case, including schematics and source-code level implementation details.” Declaration of Xiaowu Zhang (“Zhang Decl.”) [Dkt. No. 420-1] ¶ 5. This information is not publicly known, and Huawei “has implemented strict measures to protect [its] confidentiality.” *Id.* Public disclosure would allow Huawei’s competitors to use the information to improve their competing products. *Id.*

Samsung seeks to seal excerpts that “reveal highly confidential technical information,” including “descriptions of the source code . . . and how that source code operates, as well as the network functionality . . . and the testing performed on the accused Samsung products.” Declaration of Hojin Chang (“Chang Decl.”) [Dkt. No. 421] ¶ 6. This information is not publicly known, and Samsung maintains it as a trade secret. *Id.* Public disclosure would harm Samsung by

¹ The parties should note that just because I agree to seal information at this juncture does not necessarily mean it will remain sealable at trial, particularly if it is key to the public’s ability to understand the case and the parties’ respective arguments.

1 allowing its competitors to improve their competing products without expending the same time
2 and resources. *Id.*

3 Qualcomm seeks to seal excerpts that “contain references [to] and discussion of
4 Qualcomm’s confidential information and confidential source code.” Declaration of Matthew
5 Dobbins (“Dobbins Decl.”) [Dkt. No. 366-2] ¶ 3. Qualcomm carefully guards this information,
6 and public disclosure would cause it significant competitive injury. *Id.*

7 Nokia seeks to seal sensitive business information “including technical information that
8 has not been publicly disclosed, discussions regarding patent procurement practices, and details
9 regarding its relationships with business partners.” Declaration of Ryan Koppelman (“Koppelman
10 Decl.”) [Dkt. No. 346] ¶ 2. Public disclosure of this confidential information would give an
11 advantage to Nokia’s competitors.² *Id.* ¶ 3.

12 AT&T and T-Mobile seek to seal confidential information about their respective LTE
13 communication networks. Declaration of Beth Crowder (“Crowder Decl.”) [Dkt. No. 400] ¶ 5;
14 Declaration of Paula Phillips (“Phillips Decl.”) [Dkt. No. 400] ¶ 4. Disclosure of this information
15 would cause them harm because they would not have the same insight into others’ networks.
16 Crowder Decl. ¶ 5; Phillips Decl. ¶ 4.

17 There are compelling reasons to seal the information falling into this category. The
18 parties’ requests and my orders are as follows:

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27 ² Nokia also notes that I granted a prior motion to seal similar confidential information. Koppelman Decl. ¶
28 4. That motion was subject only to the good cause standard, whereas this one is subject to the compelling
justification standard. *See* Dkt. No. 188.

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 327-8 Huawei's MSJ	Huawei: yellow-highlighted portions (page 14, lines 1-11, table; page 18, lines 1-27 and Figure 8; page 19, lines 1-7 including Figure, footnote 13) Samsung: green-highlighted portions on page 9, line 16; page 14, table Qualcomm: blue-highlighted portions (page 14, table; page 19, lines 8-22)	Confidential product details and source code	GRANTED
Dkt. 327-46 McBride Decl., Exh. 26 (deposition)	Huawei: the redacted portions on pages 68-69	Descriptions of product functions	GRANTED
Dkt. 327-47 McBride Decl., Exh. 27 (expert report)	Huawei: the redacted portions on pages 126-27; 141-46, including all of Figure 8 on page 144 and Figure 3 on page 145; 155; 157; 158, including all of Figure 8; 159, including all of Figure 3; 160-62; 222-23; 232; 234; 274) Qualcomm: blue-highlighted portions on pages 146-47, 155, 162-63	Source code and confidential product functions	GRANTED
Dkt. 327-49 McBride Decl., Exh. 29 (quantization coefficients)	Huawei: page 3, entire page Samsung: page 1, entire page Qualcomm: page 2, entire page	Exact values of quantization coefficients	GRANTED
Dkt. 327-51 McBride Decl., Exh. 36 (expert report)	Huawei: yellow-highlighted portions (pages 119, 167-71, 180-83) Qualcomm: blue-highlighted portions on pages 171-74, 183-87	Detailed descriptions of source code	GRANTED
Dkt. 327-52 McBride Decl., Exh. 37 (deposition)	Huawei: yellow-highlighted portions (pages 233, 237, 282)	Discussions of product functions	GRANTED
Dkt. 327-55 McBride Decl., Exh. 41 (expert report)	Huawei: yellow-highlighted portions (pages 141-43) Qualcomm: blue-highlighted portions (pages 148-49)	Confidential product functions and source code	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 327-56 McBride Decl., Exh. 42 (expert report)	Huawei: yellow-highlighted portions (pages 56-57) Qualcomm: blue-highlighted portions (page 60)	Confidential product functions and source code	GRANTED
Dkt. 327-4 Huawei's Daubert Motion on Technical Issues	Huawei: yellow-highlighted portions (page 20, line 27 to page 21 line 1; page 25, lines 1-6) Samsung: green-highlighted portion on page 16, line 5 (between "standard" and "they are not") Qualcomm: blue-highlighted portions (page 20, lines 25-27; page 25, lines 7-11)	Quoting expert discussions of confidential product features	GRANTED
Dkt. 327-10 McBride Decl., Exh. 2 (expert report)	Samsung: Page 55, paragraph 118; page 63, the last sentence of paragraph 136, paragraph 138, footnote 3; page 66, paragraph 145; page 69, paragraphs 150-51; page 74, paragraph 162; page 77, paragraphs 169-70	Confidential product functions and source code	GRANTED
Dkt. 327-14 McBride Decl., Exh. 11 (expert report)	Huawei: yellow-highlighted portions (pages 165, 166-68 including Figure 8 and Figure 3, 170-76 including Figure 8, Figure 19, and Figure 21, 179-84 including Figure 8 and Figure 3) Qualcomm: blue-highlighted portions (pages 163, 168-69, 177, 184-85)	Specific descriptions of source code and product functionality, including figures	GRANTED
Dkt. 327-15 McBride Decl., Exh. 12 (expert report)	Huawei: yellow-highlighted portions (pages 36, 203-05, 246) Qualcomm: blue-highlighted portions (pages 205-07, 246-47)	Detailed descriptions of source code along with features and functionality of accused products	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 327-17 McBride Decl., Exh. 15 (expert report)	Qualcomm: entire document Samsung: page 36, the portion of paragraph 95 between “LTE standard” and “they are not Zadoff-Chu”; page 46, the portion of paragraph 115 between “acquired by the Asserted Claims” and “Third”; page 48, the portion of paragraph 119 between “3GPP TS 36.211 at § 5.7.2” and “Because the Accused Products”, header (a); pages 48-49, paragraphs 120-21; page 50, the last two sentences of paragraph 123, header (a), paragraph 124; page 51, paragraphs 125-26	References to source code along with discussions about how the patents function and the merits of the asserted claims	Qualcomm’s request is overbroad. Parts of the report are not sealable because they merely describe how the patents function and give other generalities about the case. Qualcomm’s request to seal the entire document is DENIED with leave to amend . Samsung’s request is GRANTED .
Dkt. 327-20 McBride Decl., Exh. 23 (expert report)	Huawei: yellow-highlighted portions (pages 172-77, 180-81) Qualcomm: blue-highlighted portions (pages 177-79)	Specific descriptions of the functions and source code of accused products	GRANTED
Dkt. 333-2 Samsung’s MSJ	Samsung: blue-highlighted portions on page 15, lines 3-28; page 16, lines 1-21	Arguments regarding confidential features of the accused products	GRANTED
Dkt. 333-4 (declaration)	Samsung: paragraphs 3-5	Descriptions of confidential features of the accused products	GRANTED
Dkt. 333-5 (declaration)	Samsung: blue-highlighted portion on page 10, lines 10-11	Reference to source code	GRANTED
Dkt. 333-9 Exhibit B (expert report)	Samsung: paragraph 241 on page 81; paragraphs 438-39 on page 148; paragraphs 445-47 on page 149; paragraphs 450-52 on page 150	Detailed description of source code and confidential functions of accused products	GRANTED
Dkt. 333-21 (resubmitted at Dk. 422-9) Exhibit I (expert report)	Samsung: blue-highlighted portions of paragraphs 245-46 on page 108; paragraphs 249-50 on page 109; Qualcomm Source Code Analysis, page 1; Shannon333 Source Code Analysis, page 1 AT&T, T-Mobile: purple-highlighted portions of paragraph 124 on page 50 other than “Sprint”	Confidential features of accused products and other products	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 333-23 Exhibit J (deposition)	Samsung: page 282, lines 22-25; page 283, lines 1-25; page 284, lines 1-19; page 285, lines 1-3, 14-21; page 286, lines 9-11, 23-24; page 287, lines 3-13; page 289, lines 1-20; page 290, lines 11-14; page 291, lines 17-25; page 292, lines 1-3	Discussions of confidential features of accused products	GRANTED
Dkt. 333-26 Exhibit L (deposition)	Samsung: page 100, line 19 through page 103, line 15	Discussions of confidential features of accused products	GRANTED
Dkt. 333-28 Exhibit M (deposition)	Samsung: page 22, lines 6-7; page 23, lines 3-8; page 24, lines 1-7, 23-24; page 50, lines 17-25; page 51, lines 1-5, 9-11; page 52, first two words on line 2, first word on line 9; page 53, lines 1-24; page 60, lines 5-9, 18-25; page 61, lines 1-25; page 62, lines 1-22	Discussions of confidential features of accused products	GRANTED
Dkt. 333-30 Exhibit N (unofficial deposition transcript)	Samsung: page 4, lines 1-7, 25; page 5, lines 4-25; page 6, lines 1-5; page 24, lines 24-25; page 25, lines 1-3	Discussions of confidential features of accused products	GRANTED
Dkt. 333-32 Exhibit O (declaration)	AT&T: entire document	Detailed discussions of AT&T's LTE wireless communication network	GRANTED
Dkt. 333-36 Exhibit Q (declaration)	T-Mobile: entire document	Detailed discussions of T-Mobile's LTE wireless communication network	GRANTED
Dkt. 333-38 Exhibit R (expert report)	Nokia: pages 46-51	Discussions of Motorola patent development	This request is not narrowly tailored, <i>see</i> Civ. L.R. 79-5(b), and it includes expert patent discussions, which are not sealable, <i>see</i> 9/25/18 Order 93. This request is DENIED with leave to amend .
Dkt. 334-2 Samsung's Motion to Strike	Huawei: green-highlighted portions on page 16, lines 3-7	Confidential product functions	GRANTED
Dkt. 334-13 Exhibit F (response to interrogatories)	Huawei: page 78, lines 24-26; page 79, lines 14-16; page 81, lines 12-14, 28; page 82, lines 1-2	Confidential product functions	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 334-25 Exhibit L (expert report)	Huawei: page 56-59, paragraphs 141-143; pages 66-68, text from heading 1 to paragraph 173 inclusive; pages 70-71, paragraph 180	Source code and confidential product functions	GRANTED
Dkt. 334-29 Exhibit N (expert report)	Huawei: page 77, paragraph 203; pages 78-79, paragraph 205 Qualcomm: pages 79-81, paragraphs 208-211	Confidential functions of accused products	GRANTED
Dkt. 334-36 Exhibit R (expert report)	Samsung: paragraphs 258-70 on pages 89-91; paragraphs 272-81 on pages 91-93; paragraph 283 on page 93; paragraphs 291-93 on pages 95-96; paragraphs 296-304 on pages 97- 101; paragraphs 307-13 on pages 101-05; paragraphs 325-37 on pages 108-10; paragraphs 339-74 on pages 110-18	Frequent references to source code and detailed descriptions of functions	GRANTED
Dkt. 347-6 Huawei's Opp. to Samsung's MSJ	Samsung: green-highlighted portions (pages 13-19, including images on page 15) Nokia: blue-highlighted portions (pages 19-21)	Arguments regarding confidential product functions	GRANTED
Dkt. 347-10 Akl Declaration	Samsung: green-highlighted portions (pages 2-3)	Descriptions of source code and confidential product features	GRANTED
Dkt. 347-12 Mahon Declaration	Nokia: blue-highlighted portions (pages 2-3)	Descriptions of confidential product features	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 347-16 Szczepanik Declaration			
At page 1: Exh. 3 (deposition)	Samsung: page 22, lines 6-7; page 23, lines 3-8; page 27, lines 22-23; page 33, lines 11-12, 23-25; page 34, lines 1, 17-25; page 35, lines 1-25; page 36, lines 1-24; page 38, lines 2-24; page 61, lines 1-25; page 62, lines 1-22; page 63, lines 17-25	Discussions about confidential product features	GRANTED
At page 19: Exhs. 4-9 (deposition)	Samsung: entire document	Some discussion of confidential features	Not narrowly tailored; DENIED with leave to amend
At page 247: Exh. 10 (deposition)	Samsung: page 148, lines 2-6, 19-25; page 149, lines 1-3	Discussions about confidential product features	GRANTED
At page 253: Exhs. 11-12 (deposition and slides)	Nokia: entire document	Some discussion of confidential features, product testing, meeting, and presentation	Not narrowly tailored; DENIED with leave to amend
At page 281: Exhs. 16, 26-41 (deposition)	Samsung: entire document	Exh. 16: some references to source code and confidential products. Exhs. 26-41: detailed charts and tables with confidential product features	Exh. 16 request is not narrowly tailored; DENIED with leave to amend. GRANTED as to 26-41.
At page 308: Exhs. 18-25	Qualcomm: entire document	Detailed charts, tables, and slides with confidential product features	GRANTED
At page 434: Exhs. 43-50, 62-74	Samsung: entire document	Detailed confidential product testing reports	GRANTED
At page 540: Exh. 80	Samsung: green-highlighted portions (paragraphs 137-236, 243-46, 249-54, 267, including figures and table adjacent to those paragraphs)	Near-constant references to source code, confidential product features, and testing	GRANTED
At page 610: Exh. 81	Samsung: green-highlighted portions (paragraphs 4-12 including table adjacent to paragraph 12)	Discussion of confidential product features	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 347-8 Huawei's Opp. to Samsung's Mtn. to Strike	Huawei: yellow-highlighted portions (pages 13-15)	Confidential product features	GRANTED
	Samsung: green-highlighted portion (page 4, lines 3-4)	Excerpt of source code	GRANTED
Dkt. 347-18 Yang Decl.			
At page 6: Exh. 3 (response to interrogatories)	Samsung: page 36, lines 8-26; page 57, lines 1 through page 61, line 25; page 62, line 25-28; page 87, line 1 through page 93, line 20	Near constant references to product source code and functionality	GRANTED
At page 38: Exh. 10 (expert report)	Samsung: green-highlighted portions (pages 174-75, 185)	References to confidential product features	GRANTED
At page 64: Exh. 14 (expert report)	Huawei: paragraphs 536-540, 547	Confidential product features	GRANTED
	Samsung: paragraphs 703-705 on page 274	Same	GRANTED
	Qualcomm: paragraph 542	Same	GRANTED
Dkt. 355-4 Samsung's Opposition to Huawei's Daubert Motion	Huawei: yellow-highlighted portions on page 24, lines 24-27	Descriptions of product functions	GRANTED
	Qualcomm: purple-highlighted portions on page 20, lines 25-26; page 23, lines 1-2; page 24, lines 24-28; and page 25, lines 1-3	Descriptions of product functions and source code	GRANTED
Dkt. 355-7 Exhibit A (expert report)	Samsung: blue-highlighted portions of paragraphs 118, 145, 150-51, 162, 169-70	References to confidential product features and source code	GRANTED
Dkt. 355-10 Exhibit C (expert report)	Samsung: blue-highlighted portions on pages 28, 37, 45, and 48-51	Descriptions of product features, of how source code functions	GRANTED
Dkt. 355-21 Exhibit L (response to interrogatories)	Huawei: page 78, lines 25-26	Confidential product features	GRANTED
Dkt. 355-23 Exhibit M (expert report)	Huawei: yellow-highlighted portions on pages 174-75, and 177	Descriptions of how source code functions along with confidential product features	GRANTED
	Qualcomm: purple-highlighted portion on pages 177-78		GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 357-4 Samsung's Opposition to Huawei's MSJ	Huawei: yellow-highlighted portions on page 12, lines 12-13; page 13, lines 2-8, 18	References to source code, quantization coefficients	GRANTED
	Huawei, Samsung: green-highlighted portions on page 12, lines 21-24; page 13, line 1	Quantization coefficients and product functionality	GRANTED
	Samsung: blue-highlighted portions on page 9, lines 23-25; page 12, line 21; page 13, lines 2-8	No blue highlighting on page 9; elsewhere, product features and quantization coefficients	DENIED with leave to amend as to page 9; GRANTED as to other requests
	Qualcomm: purple-highlighted portion on page 13, lines 2-8	Quantization coefficients	GRANTED
Dkt. 357-24 Exhibit 11 (internal specifications)	Huawei: entire document	Source code	GRANTED
Dkt. 357-26 Exhibit 12 (internal specifications)	Huawei: entire document	Source code	GRANTED
Dkt. 357-29 Exhibit 14 (expert report)	Huawei: yellow-highlighted portions of pages 126-27, 223-26	Source code and product features	GRANTED
	Qualcomm: purple-highlighted portions of pages 222, 226-27		
	Samsung: blue-highlighted portions of pages 273-74		
Dkt. 357-31 Exhibit 15 (response to interrogatories)	Huawei: pages 19-24 (Build ID information)	Confidential product features	GRANTED
Dkt. 357-33 Exhibit 16 (deposition)	Qualcomm: green-highlighted portions on pages 89, lines 13-17; page 90, lines 3-9	Descriptions of expert analysis of quantization coefficients and cell-specific ratios	GRANTED
Dkt. 357-35 Exhibit 17	Samsung: blue-highlighted portion on page 1	Quantization coefficient values	GRANTED
	Qualcomm: purple-highlighted portion on page 2		
	Huawei: yellow-highlighted portion on page 3		
Dkt. 357-38 Exhibit 19 (expert report)	Huawei: yellow-highlighted portions on pages 36-38	Descriptions of source code and product features	GRANTED
	Qualcomm: purple-highlighted portion on pages 38-39		

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 357-40 Exhibit 20 (expert report)	Huawei: yellow-highlighted portions on pages 154 (paragraphs 534-35), 155-56, 167 (paragraphs 568- 70), 168-71, 173-75 (paragraphs 594, 596-97), 180 (paragraphs 608-09), 181-83 Qualcomm: purple-highlighted portions on pages 156-57, 171-73, 183-86	Confidential product features and source code	GRANTED
Dkt. 357-46 Exhibit 25 (expert report)	Huawei: yellow-highlighted portions on page 141-47, 156-58, 191-95 Qualcomm: purple-highlighted portions on pages 147-51, 158-62, 195-97, 238-39, 304	Confidential product features, details of their development, and references to source code	GRANTED
Dkt. 369-4 Samsung's MSJ Reply	Samsung: blue-highlighted portions on page 9, lines 10-12, 15-16, 21-22; page 10, lines 4-9, 13, 15-16, 18; page 11, lines 3-4; page 12, lines 5-10, 13-28; page 13, lines 1-11 AT&T, T-Mobile: purple-highlighted portions on page 10, lines 19, 22-27; page 11, lines 1-2, 14-16, 26-28 Nokia: purple-highlighted portions on page 13, lines 22-23; page 14, lines 1-4; page 15, lines 5-7, 18	Confidential product functions and testing	GRANTED
Dkt. 369-10 Exhibit D (exemplary disclosures)	Nokia: entire document	Confidential product functions	GRANTED
Dkt. 369-12 Exhibit E (deposition)	Nokia: entire document	Expert discussions of provisional patent application	GRANTED
Dkt. 371-4 Huawei's MSJ Reply	Huawei: Within the yellow-highlighted portions (pages 3-5, 8): page 8 lines 27-28	Details about quantization coefficients and cell-specific ratios	GRANTED
Dkt. 371-15 McBride MSJ Decl. Exhibit 51 (response to interrogatories)	Samsung: entire document	Near constant references to source code and confidential product functions	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 371-17 McBride Daubert Decl. Exhibit 37 (expert report)	Huawei: yellow-highlighted portions (pages 168-71, 203-05, 246) Qualcomm: blue-highlighted portions (pages 171-73, 205-07, 246-47)	Descriptions of source code and product functions	GRANTED
Dkt. 371-19 McBride Daubert Decl. Exhibit 39 (expert report)	Samsung: paragraphs 118, 145, 150-51, 162, 169-70	Confidential product features	GRANTED

B. Licensing Information, Terms, and Counterparty Identity

In my September 25, 2018 Order, I advised the parties that certain aspects of licensing negotiations and agreements would be sealable while others would not be. 9/25/18 Order 93. For example, percentages of royalties and the identities of third parties to licensing agreements can be sealable if not publicly known. *Id.* But other provisions are not sealable “unless a person with knowledge explains why specific provisions are so unique to that agreement that disclosure would cause significant harm.” *Id.*

Huawei seeks to seal confidential information about licensing agreements and negotiations. Zhang Decl. ¶ 6. If that information becomes public, competitors or potential licensing partners “could gain unfair insight and leverage . . . creating an asymmetry of information and bargaining power.” *Id.* Huawei further asserts that it seeks to seal the identity of a counterparty to one license agreement with unique, confidential terms. *Id.* ¶ 7. Huawei asks that the counterparty’s identity and the terms of the agreement not be simultaneously disclosed. *Id.* Finally, Huawei requests sealing of the licensing agreement itself, which would allow the public to identify the counterparty. *Id.* Samsung seeks to seal information related to highly confidential licensing negotiations with Huawei and third parties that includes royalty rates and offers. Chang Decl. ¶ 5. Public disclosure would allow competitors to gain an advantage over Samsung in future negotiations. *Id.*

The parties’ requests and my orders are as follows:

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. No. 327-8 Huawei's MSJ	Samsung: the redacted portion on page 9 line 16	Information about royalties	GRANTED
Dkt. 327-33 McBride Decl., Exh. 9 (depo)	Huawei, Samsung: yellow-highlighted portions	Counterparty identities and comparative terms describing royalties	GRANTED
Dkt. 327-37 McBride Decl., Exh. 13 (emails)	Huawei, Samsung: page 1, number shown in phrase "XXX US Dollars per terminal product"	Royalty figure	GRANTED
Dkt. 327-38 McBride Decl., Exh. 14 (letter)	Huawei, Samsung: page 2, number shown in phrase "royalty of XXX USD to get a release"	Royalty figure	GRANTED
Dkt. 327-25 Peterson Decl., Exh. 2 (expert report)	Huawei, Samsung: within the yellow-highlighted portions (page 15, paragraphs 29-31): royalty rates in paragraphs 29 and 31 ("same rate of XXX," "rate of XXX per unit for UMTS essential patents and XXX per unit for LTE," "demand of XXX," "any basis for the XXX or XXX rates")	Royalty rates	GRANTED
Dkt. 331-2 Samsung's Motion to Partially Exclude	Huawei: yellow-highlighted portions on page i, line 7; page 1, lines 8-11, 13-14, 17-28; page 2, line 6, 15, 13-17; page 5, lines 19-27; page 6, lines 1-18, 25-28; page 7, lines 3-4, 25; page 8, line 24 Huawei, Samsung: green-highlighted portion on page 1, lines 13-14	Name of license counterparty	GRANTED
Dkt. 331-6 Exhibit 1 (resubmitted at Dkt. 422-1) (expert report)	Huawei: entire document, except for the following portions that can be made public: paragraphs 12-14, 19, 21-24, 30-31, 69-80, 84-90, 93- 97, 99 Samsung: blue-highlighted portions of paragraphs 16, 18, 28, 81, 134, 157-63, 166-71, 176-80; figures 1, 3, 29-32, 42-61, 63-64; footnotes 9, 166-67, 195, 327, 387, 390, 396, 401, 404, 428; schedules 6.1, 10.1, 13.1; Appendix D, Figures 1-2	76-page document with royalty rates along with information about business operations (ex: sales data) Primarily royalty rates and language of comparison with some references to revenue, sale prices, and sales data ³	Overbroad; DENIED with leave to amend. ⁴ Huawei should request narrowly tailored redactions in compliance with Civ. L.R. 79-5(b). GRANTED

³ The information in this request primarily relates to royalties; therefore, I will not address sales requests separately. The information is sealable for the reasons set forth below. *See* Section I.C – Sales Information.

⁴ Because the request as a whole is overbroad, I will not address the sales-based requests again below; however, the parties should rely on my discussions below when amending their motions. *See* Section I.C –

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 331-8 Exhibit 2 (resubmitted at Dkt. 422-2) (expert report)	Huawei, Samsung: yellow-highlighted portions on pages 38-39, paragraph 6.7 and footnote 87 Huawei, Samsung: pages 40-41, royalty terms in paragraph 6.12 Samsung: blue-highlighted portions of footnote 79	Describing FRAND offers Specific royalty figures Royalty and negotiation information	Overbroad; DENIED with leave to amend GRANTED GRANTED
Dkt. 331-10 Exhibit 3 (resubmitted at Dkt. 422-3) (expert report)	Huawei, Samsung: yellow-highlighted portions on page 28, royalty terms in paragraph 6.5(b) Samsung: blue-highlighted portions of paragraph 6.5(a) and footnote 70	Royalty terms Royalty terms, details of Samsung's licensing practices	GRANTED GRANTED
Dkt. 331-12 Exhibit 4 (resubmitted at Dkt. 422-4) (expert report)	Huawei: entire document, except for the following portions that can be made public: paragraphs 18, 44-57, 64-65 Samsung: blue-highlighted portions of paragraphs 5, 17, 22, 24, figures 1, 4-5; footnotes 23, 38, 40, 43, 52, 55	20-page document with royalty rates along with information about business operations Royalty rates and words of comparison	Overbroad; DENIED with leave to amend ⁵ GRANTED
Dkt. 331-14 Exhibit 5 (resubmitted at Dkt. 422-5) (expert report)	Huawei: yellow-highlighted portions on pages 3-5, 18-20 Samsung: yellow-highlighted portions of figures 1-2, 9 and footnote 65; blue highlighted portions of paragraphs 9-10, 41	Royalty figures and name of license counterparty	GRANTED
Dkt. 331-16 Exhibit 6 (expert report)	Huawei: page 1, paragraph 3 (name of license counterparty); pages 3-4, paragraphs 6-9 (same)	Name of license counterparty	GRANTED

Sales Information.

⁵ Because the request as a whole is overbroad, I will not address separately the business-operations-based requests again below; however, the parties should rely on my discussions below when amending their motions. *See infra* Section I.D – Remaining Requests in Joint Chart.

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 331-20 Exhibit 8 (resubmitted at Dkt. 422-7) (expert report)	Huawei: yellow-highlighted portions on pages 62-72, 75 Samsung: yellow-highlighted portions of paragraphs 152-53, 155-64, 166, 168-69, 179 and footnote 211 Samsung: blue-highlighted portions of paragraphs 175-78, 191-92 and footnote 176	Information related to negotiations, including some references to specific royalty offers Specific royalty rates and terms of comparison	The yellow highlighting is overbroad; the parties' requests are DENIED with leave to amend . ⁶ They should resubmit with narrowly tailored redactions of the names of license counterparties, the specific royalty rates and figures offered, and terms of comparison. GRANTED with the exception of the non-royalty information in paragraph 191. ⁷
Dkt. 331-27 Exhibit 12 (resubmitted at Dkt. 422-8) (expert report)	Huawei: yellow-highlighted portions on pages 35, 99, 116	Specific rates, name of license counterparty	GRANTED
Dkt. 331-30 Exhibit 14 (deposition)	Huawei, Samsung: page 164, royalty rates and prices	Royalty rates and prices	GRANTED
Dkt. 331-37 Exhibit 19 (license agreement)	Huawei: entire document	License agreement	GRANTED
Dkt. 331-39 Exhibit 20	Huawei: pages 18-19 (name of license counterparty), 89-112 (same)	Name of license counterparty	GRANTED
Dkt. 347-4 Huawei's Opposition to Samsung's Motion to Partially Exclude Expert Reports	Huawei: within the yellow-highlighted portions (pages 1, 3-7): each instance of the name of the counterparty to the license with Huawei, the financial terms in footnote 3 on page 4 Samsung: green-highlighted portions (page 20) ⁸	Name of counterparty, financial terms, percentage Rate comparison	GRANTED GRANTED

⁶ Because the request as a whole is overbroad, I will not address separately the proprietary-information-based requests again below; however, the parties should rely on my discussions below when amending their motions.

⁷ I will address this request (along with footnote 251 and exhibit 6a) below. *See infra* Section I.C – Sales Information.

⁸ Both parties request additional redactions that I address below. *See infra* Section I.C – Sales Information.

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 347-14 at 1 Peterson Decl. Exhibit 1 (resubmitted at Dkt. 422-10) (deposition)	Huawei: yellow-highlighted portions (pages 219-222, 232- 242).	Counterparty names, royalty rate information and methodology, details of agreements	GRANTED
Dkt. 347-14 at 20 Exhibit 2 (resubmitted at Dkt. 422-11) (deposition)	Huawei: yellow-highlighted portions (pages 18-19, 92, 104- 05)	Counterparty name	GRANTED
Dkt. 347-14 at 54 Exhibit 5 (deposition)	Huawei: within the yellow- highlighted portions (pages 207- 08): royalty rate terms on page 207, line 12 and page 208, line 7	Royalty rates	GRANTED
	Samsung: green-highlighted portions (pages 204-09)		Overbroad; DENIED with leave to amend. The parties should resubmit a version with only counterparty names, royalty rates, and words of comparison.
At 73 Exhibit 8 (expert report)	Huawei: within the yellow- highlighted portions (pages 6, 7, 10, 11): page 6 sentence beginning “agreement with” and ending “phone market”; pages 7, 10, and 11 each instance of the name of the counterparty to the agreement with Huawei, as well as the royalty rate in the last line of paragraph 8 and the second sentence in paragraph 10	Comparison between different license offers, descriptions about license counterparty, counterparty name, and royalty rate	GRANTED
At 89 Exhibit 10 (expert report)	Huawei: within the yellow- highlighted portions (pages 9, 11- 16): highlighted portion of paragraph 17	Royalty comparison	GRANTED as to the royalty percentages in paragraph 17 ⁹
	Huawei, Samsung: royalty rates in paragraph 31 on page 15	Royalty rates	GRANTED

⁹ I will address the request to seal information related to arbitration below. *See infra* Section I.D. – Remaining Requests in Joint Chart.

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 357-4 (corrected at Dkt. 362) Samsung's Opposition to Huawei's MSJ	Huawei: yellow-highlighted portions on page 2, lines 9-13; page 4, lines 23-26; page 5, lines 14-15; page 7 lines 5-8, 22-24; page 8, lines 19-20	Name of counterparty, royalty rates, and comparisons between royalty rates	GRANTED
	Huawei, Samsung: green-highlighted portions on page 2, lines 13-16	Same	GRANTED
Dkt. 357-8 Exhibit 2 (deposition)	Huawei: page 137, lines 4-25	Discussion that includes royalty rate	Overbroad; DENIED with leave to amend with requests that are narrowly tailored redactions of royalty rates
Dkt. 357-10 Exhibit 3 (expert report)	Huawei: entire document	In-depth discussion of details of several different license agreements	GRANTED
Dkt. 357-12 Exhibit 4 (deposition)	Huawei: page 171, lines 1-23	Discussion that includes royalty rate	Overbroad; DENIED with leave to amend with requests that are narrowly tailored redactions of royalty rates
Dkt. 357-15 Exhibit 6 (resubmitted at Dkt. 422-12)	Huawei: yellow-highlighted portions on pages 9, 13-15 Samsung: yellow highlighted portion of paragraph 31 (page 15) ¹⁰	Royalty rates and figures	GRANTED
Dkt. 357-20 Exhibit 9 (resubmitted at Dkt. 422-13) (expert report)	Huawei: yellow-highlighted portions on pages 6-11 Samsung: the first, third, and fourth yellow-highlighted portions on page 8	Name of and identifying information about counterparty, royalty rates and comparison terms	GRANTED
Dkt. 357-22 Exhibit 10 (expert report)	Samsung: entire document	One page of projected license figures	GRANTED
Dkt. 371-4 Huawei's MSJ Reply	Huawei: within the yellow-highlighted portions (pages 3-5, 8): counterparty name on page 4, line 10 Samsung: green-highlighted portions (page 3, lines 17, 19-21)	Counterparty name Royalty rates	GRANTED
Dkt. 371-9 McBride MSJ Decl. Exhibit 44 (expert report)	Samsung: royalty rates on page 9, lines 3, 7-9; page 10, line 19; page 11, line 25	Royalty rates	GRANTED

¹⁰ I will address Samsung's remaining requests below. *See infra* Section I.C – Sales Information.

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 371-10 McBride MSJ Decl. Exhibit 45 (deposition)	Samsung: royalty rates on page 32, line 20; page 33, lines 22-23; page 34, lines 4, 10	Royalty rates	GRANTED
Dkt. 371-11 McBride MSJ Decl. Exhibit 46 (deposition)	Huawei, Samsung: within the yellow-highlighted portions (page 139): royalty rates on page 139 lines 9 and 15	Royalty rates	GRANTED
Dkt. 371-13 McBride MSJ Decl. Exhibit 48 (chart)	Samsung: entire document	Short document with license terms	GRANTED
Dkt. 371-14 McBride MSJ Decl. Exhibit 49 (letter)	Huawei, Samsung: within the yellow-highlighted portions (pages 1-3): the stated royalty rates on pages 1-2, and the “Royalty Fees Payable by Samsung to Huawei” and “Royalty Fees Payable By Huawei to Samsung” sections of the table on page 3	Royalty rates	GRANTED
Dkt. 378-4 Samsung’s Motion to Partially Exclude Reply	Huawei: yellow-highlighted portions on page 1, lines 3-4, 6-12; page 3, lines 9-15, 19-21, 23-24, 28; page 4, lines 1-2, 5, 11, 13, 18, 24; page 5, lines 13, 16, 19; page 6, lines 27-28	Name of and identifying information about counterparty	GRANTED
Dkt. 378-10 Exhibit 3 (expert report)	Huawei: entire document	Royalty rates, license information, and charts	Overbroad; DENIED with leave to amend ¹¹ with narrowly tailored redactions
Dkt. 378-18 Exhibit 7 (deposition)	Huawei: pages 187-88 (each instance of license counterparty name); page 197 (same); page 201 (line 14 same); pages 214-15 (same)	Name of license counterparty	GRANTED

C. Sales Information

Both Huawei and Samsung seek to seal confidential sales data because disclosure would harm their competitive standing by giving competitors insight they do not have. Zhang Decl. ¶ 10; Chang Decl. ¶ 4. Finding compelling justifications, I allowed redactions such information in my September 25, 2018 Order. The parties’ requests and my orders are as follows:

¹¹ Because the request as a whole is overbroad, I will not address the sales-based requests again below; however, Huawei should rely on my discussions below when amending their motions. *See infra* Section 1.C – Sales Information.

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 327-26 Peterson Decl., Exh. 3	Samsung: page 13, the portion of paragraph 13 between “problem could be” and “per year in the U.S.”; page 14, the portions of paragraph 15 between “surplus would be” and “per year if an injunction” and between “which would exceed” and “per year”	Estimated losses	GRANTED
Dkt. 331-12 Exhibit 4 (resubmitted at Dkt. 422-4) (expert report)	Samsung: blue-highlighted portions of paragraph 48	Profit margins	GRANTED
Dkt. 331-20 Exhibit 8 (resubmitted at Dkt. 422-7) (expert report)	Samsung: blue-highlighted portions of paragraph 191, footnote 251, and exhibit 6a	Detailed manufacturing information	GRANTED
Dkt. 347-4 Huawei’s Opposition to Samsung’s Motion to Partially Exclude Expert Reports	Huawei: yellow-highlighted highlighted percentage number on page 23 Samsung: green-highlighted portions (pages 23-24)	Sales information	GRANTED
Dkt. 347-14 at 32 Peterson Decl. Exhibit 3 (deposition)	Samsung: page 166, lines 6-7, 10-15	Revenue and patent portfolio information	GRANTED
Dkt. 357-15 Exhibit 6 (resubmitted at Dkt. 422-12)	Samsung: yellow-highlighted portion of footnotes 2, 46-47	Profit margins and sales figures	GRANTED
Dkt. 371-4 Huawei’s MSJ Reply	Samsung: green-highlighted portions (page 6, lines 9-10, 12)	Estimated losses and manufacturing information	GRANTED
Dkt. 378-4 Samsung’s Motion to Partially Exclude Reply	Samsung: blue-highlighted portions on page 14, lines 8-9, 25	Sales information	GRANTED

D. Remaining Requests in Joint Chart

Both parties request sealing of third-party research and analytics data they paid to obtain. Zhang Decl. ¶ 11; Chang Decl. ¶ 7. Huawei asserts that its competitors should not be able to

access this information at no charge. Zhang Decl. ¶ 11. Samsung asserts that public disclosure could subject it to legal claims by the research companies, which reserve the rights of reproduction and distribution. Chang Decl. ¶ 7. Huawei seeks to seal information related to a confidential arbitration because it was subject to non-disclosure agreements and because disclosure “could undermine the parties’ willingness to resolve their disputes using that procedure.” Zhang Decl. ¶ 8. Finally, the parties seek sealing of figures related to their investment in research and development of certain features. *Id.* ¶ 9.

The parties’ requests and my orders are as follows:

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 331-18 Exhibit 7 (resubmitted at Dkt. 422-6) (expert report)	Huawei: yellow-highlighted portions on pages 32-37, 85-86, 118-19, 121-22	Signals research	DENIED with leave to amend. Huawei has not demonstrated compelling justifications to seal this information.
Dkt. 331-23 (Exhibit 10)	Samsung: entire document	ABI research report	DENIED with leave to amend. Samsung has not demonstrated compelling justifications to seal this information.
Dkt. 347-14 at 89 Peterson Decl. Exhibit 10 (expert report)	Huawei: highlighted portion of paragraph 17	Information about arbitration proceedings	DENIED with leave to amend. Huawei has not demonstrated compelling reasons for its request, which the third party (and arbitration counterparty) apparently does not join. The redacted portions seem to generally reference the relationship between injunctions, licensing agreements, and settlements.
At 101 Exhibit 11 (expert report)	Huawei: yellow-highlighted portions on page 35 Samsung: green-highlighted portions (page 35)	Information about the parties’ investments in research and design; references to Signal Research	GRANTED as to research and design information along with investment details. DENIED with leave to amend as to the reference to Signals Research. The parties have not shown compelling justifications to seal this information.

E. Later-Submitted Requests

On November 1, 2018, Samsung filed a motion for clarification of my September 25, 2018 Order that included a request to file a supplemental expert report. Dkt. No. 427. Huawei filed a motion to seal portions of the exhibits filed with its opposition to that motion. Dkt. No. 428. Samsung followed up with a declaration justifying its own requests along with newly redacted versions of the relevant exhibits. Dkt. No. 430. Because the motion for clarification was not “more than tangentially related to the merits” of this case, these requests are subject to the good cause standard. *See Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016).

The parties again seek sealing of details from licensing agreements and negotiations, including royalty rates, along with confidential business information. Declaration of Leif Peterson [Dkt. No. 428-2]; 11/15/18 Declaration of Xiaowu Zhang [Dkt. No. 428-3] ¶ 5; Declaration of Jocelyn Ma (“Ma Decl.”) [Dkt. No. 430] ¶¶ 6–10.

The parties’ requests and my orders are as follows:

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Giardina Decl. Exhibit 3	Huawei: yellow-highlighted portions Samsung: blue highlighted portions Huawei and Samsung: green highlighted portions	Royalty rates, details from licensing negotiations, and fact and expert witness testimony (from another case) that references and excerpts those negotiations	GRANTED
Giardina Decl. Exhibit 4	Samsung: blue-highlighted portions	Experts of fact and expert witness testimony (from another case) that discuss the content of negotiations and Samsung’s negotiation tactics	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Giardina Decl. Exhibit 5	Samsung: blue-highlighted portions	Excerpts of fact testimony about Samsung's business and patent application practices	GRANTED

II. DOCUMENTS THE PARTIES AGREE CAN BE UNSEALED

The parties agree that the following exhibits no longer need to be filed under seal. Joint Chart 2. The Clerk **shall unseal** the following Docket Numbers in this case: 327-6, 327-9, 327-11, 327-12, 327-13, 327-16, 327-18, 327-19,, 327-21, 327-22, 327-23, 327-24, 327-27, 327-28, 327-29, 327-30, 327-31, 327-32, 327-34, 327-41, 327-42, 327-44, 327-45, 327-48, 327-50, 327-53, 327-54, 327-57, 331-25, 331-33, 331-43, 333-11, 333-13, 333-15, 333-18, 333-40, 334-6, 334-9, 334-11, 334-15, 334-17, 334-19, 334-21, 334-23, 334-27, 334-32, 334-34, 334-38, 334-40, 334-42, 334-44, 334-46, 348-14, 349-4, 349-8, 349-10, 349-12, 355-14, 357-6, 357-18, 371-6, 371-8, 371-12, 371-16, 371-18, 378-6, 378-8, 378-12, 378-14, 378-16.

III. DOCUMENTS THE PARTIES SHALL RESUBMIT PURSUANT TO THIS ORDER

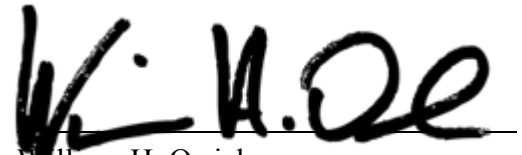
The orders above require the parties to submit new versions of some documents, either because they significantly reduced their internal redaction requests in the joint chart or because they did not submit redacted public versions of the documents in the first instance. **Within 20 days** of the date of this Order, the parties shall resubmit the following docket numbers making only the redactions allowed above: 327-8, 327-46, 327-55, 327-4, 327-10, 327-17, 327-20, 333-2, 333-4, 333-9, 333-23, 333-26, 333-28, 333-30, 334-2, 334-13, 334-25, 334-29, 347-18, 357-4, 357-29, 357-40, 357-46, 371-4, 371-17, 371-19, 331-2, 331-16, 331-30, 331-39, 347-4, 347-14, 357-4, 371-4, 371-9, 371-11, 378-4, 378-18, 327-26, and 347-14. The party who originally submitted each document is responsible for resubmitting the correctly redacted public version after the parties have met and conferred as necessary. If, during their review of this Order, the parties become aware of any additional documents that need to be resubmitted to comply with this Order, they shall file those within 20 days as well.

In the event that the parties wish to resubmit any requests that were denied with leave to amend, they shall do so **within 20 days** of the date of this Order. For documents in which I have

1 granted some requests and denied others (for example, docket number 347-14), the parties should
2 resubmit the documents with both the approved redactions and any pending revised redactions. If,
3 on reconsideration, the parties determine that any information no longer needs to remain under
4 seal, they shall identify those docket and sub-docket numbers so that the Clerk can unseal them.

5 **IT IS SO ORDERED.**

6 Dated: January 30, 2019

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9 William H. Orrick
United States District Judge

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United States District Court
Northern District of California